

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

Mary Ann Terry,)	Civil Action No. 5:13-314-DCN-KDW
)	
Plaintiff,)	
)	
)	
vs.)	REPORT AND RECOMMENDATION
)	
Carolyn W. Colvin, ¹ Acting Commissioner)	
of Social Security Administration,)	
)	
Defendant.)	
)	

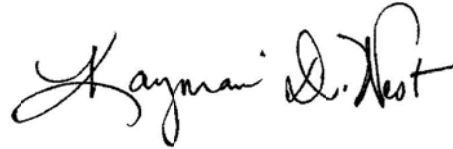
On February 4, 2013, Plaintiff, appearing through counsel, filed this action appealing her denial of social security benefits. In response, Defendant filed a Motion to Dismiss Plaintiff's Complaint as untimely. ECF No. 14. Plaintiff's response to Defendant's Motion to Dismiss was due November 25, 2013. Plaintiff sought and received an extension of time to respond to the Motion to Dismiss, making Plaintiff's response due December 10, 2013. *See* ECF Nos. 16, 17. Plaintiff did not file a timely response to the Motion to Dismiss, nor did Plaintiff's counsel communicate with the court regarding the deadline.

On December 31, 2013, the court issued its Order giving Plaintiff until January 14, 2014, to file her response to the pending Motion to Dismiss. ECF No. 19. Plaintiff was advised that if she failed to comply with this deadline, the undersigned may recommend that this matter be dismissed with prejudice for failure to prosecute. *Id.*; *see Davis v. Williams*, 588 F.2d 69, 70 (4th Cir. 1978); Fed. R. Civ. P. 41(b). Plaintiff did not file a response to Defendant's dispositive Motion to Dismiss.

¹ Carolyn W. Colvin became the Acting Commissioner of Social Security on February 14, 2013. Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, the court substitutes Carolyn W. Colvin for Michael J. Astrue as Defendant in this action.

Based on the foregoing, it appears Plaintiff no longer wishes to pursue this action. Accordingly, it is recommended that this action be dismissed *with prejudice* pursuant to Federal Rule of Civil Procedure 41(b).

IT IS SO RECOMMENDED.

A handwritten signature in black ink, reading "Kaymani D. West". The signature is fluid and cursive, with the first name "Kaymani" being more prominent and the last name "West" following in a similar style.

January 15, 2014
Florence, South Carolina

Kaymani D. West
United States Magistrate Judge

**The parties are directed to note the important information in the attached
“Notice of Right to File Objections to Report and Recommendation.”**